

MINUTES OF THE REGULAR MEETING OF FEBRUARY 13, 2014

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, February 13, 2014, in the County Council Chambers, County Administrative Office Building in Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. I.G. Burton, Mr. Rodney Smith, and Mr. Martin Ross, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. C. Shane Abbott – Assistant Director.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the Agenda as amended. Motion carried 4 – 0.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the Minutes of January 23, 2014 as amended. Motion carried 4 – 0.

OLD BUSINESS

Change of Zone #1741 – Bay Forest Club, LLC

Application of **BAY FOREST CLUB, LLC** to amend Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to MR-RPC Medium Density Residential – Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 30.695 acres, more or less, land lying east of White's Neck Road (Road 347) ½ mile north of Old Mill Road (Road 349)(Tax Map I.D. 1-34-8.00-17.00, 17.02, and 18.00 – no 911 address available).

The Chairman referred back to this application, which was deferred at the January 23, 2014 meeting.

Mr. Smith stated that he would move that the Commission recommend approval of Change of Zone #1741 for Bay Forest Club, LLC from AR-1 Agricultural Residential to MR-RPC based upon the record made during the public hearing and for the following reasons:

1. MR Zoning is appropriate for the site because medium density development is appropriate in areas where central water and sewer are available. In this case, sewer service will be provided as part of a County operated Sanitary Sewer District, and adequate wastewater capacity is available for the project. Central water service will be provided by Tidewater Utilities, Inc.
2. The proposed MR-RPC project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because this proposed project is in a Developing Area as established by the Sussex County Comprehensive Plan.

3. This application is an extension of the existing Bay Forest RPC Development, filed under C/Z #1526, that is currently underway. It covers an area of land that is adjacent to, and nearly surrounded by, the existing development. It will be incorporated into the existing development.
4. Adding this tract of land to the existing RPC will allow for an improved design of the overall development plan, including the layout of lots and homes, open spaces, community areas and roadways.
5. The project is in an area that already has similar developments, and this development is consistent with other uses in the area, including Bay Colony, Seagrass RPC, Denton Woods and Denton Manor, Banks Acres and Banksville Park, Mill Run, Whites Creek Manor, West Ocean Farms, Blackwater Village and Blackwater Cove. There are also B-1 and C-1 properties in close proximity.
6. With the conditions that are placed upon this project, the RPC designation is appropriate for this parcel of land in that the purpose of a RPC is to encourage large scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses.
7. This recommendation for change of zone is subject to the following conditions:
 - A. That the conditions imposed by Ordinance #1670 for Change of Zone #1526 shall apply to this application, with the exception of the so noted total number of units. The property that is the subject of this application shall be integrated into the overall development scheme of the Bay Forest project, and as a result those conditions shall apply equally to this tract as part of the overall development.
 - B. The number of units associated with this application shall be 84.
 - C. As a result of this application, the total maximum number of units for the entire Bay Forest Club project shall be 892, so designated as follows:
 - 151 – 85 foot single family lots
 - 14 – 75 foot single family lots
 - 216 – 70 foot single family lots
 - 7 – 65 foot single family lots
 - 93 – 28 foot by 42 foot Cottages
 - 109 – 34 foot Villas
 - 302 – 30 foot attached/detached Villas
 - 892 – Total Residential Units
 - D. Any wetlands on the area shall be marked appropriately by Carsonite Markers for the information of residents and the homeowners' association.
 - E. Before proceeding with any construction involving the land that is the subject of this application, the applicant shall submit a revised Master Plan combining under both C/Z #1526 and C/Z #1741 integrating this land into the entire Bay Forest Development.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 4 – 0.

Subdivision #2013-5 Gulfstream Glen Cove, LLC

Application of **GULFSTREAM GLEN COVE, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 8.84 acres into 17 lots, (Environmentally Sensitive Developing District Overlay Zone) and a waiver from the forested buffer requirements, located 500 feet west of the intersection of Road 352 (Windmill Road) and Road 353 (Burbage Road) (Tax Map I.D. 1-34-12.00-374.01).

Mr. Abbott advised the Commission that this application has been deferred since October 10, 2013; that at the January 23, 2014 meeting, it was announced that the record for written comments will close at the end of business on February 7, 2014; that 21 letters have been received and that the Commission has been provided copies of the letters; that the plan has been reduced from 17 to 16 lots; that there is now a buffer around the perimeter of the site; that the proposed buffer is off-set in one area; that a large spoil placement area has also been added; and that the Commission should consider leaving the record open for receipt of an approved court order change for the tax ditch easement.

Mr. Smith questioned if the sign on the site indicating lots are for sale is legal or not.

Mr. Robertson advised the Commission that the sign advertising lots for sale is not legal, since the Code only permits the advertising of lots for sale for lots that have been approved and recorded.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to defer action and to leave the record open for written comments and receipt of an approved court order change for the tax ditch easement, and to allow Mr. Johnson the opportunity to participate in the discussion of this application, if he so chooses. Motion carried 4 – 0.

PUBLIC HEARINGS

Conditional Use #1978 John W. Davidson

Application of **John W. Davidson** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a professional office with contractor storage to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 4.6425 acres, more or less, lying southwest of Route 5 (Harbeson Road) 1,915 feet northwest of Route 48 (Hollyville Road) (Tax Map I.D. 2-34-10.00-70.16).

The Commission found that the Applicant had provided an Exhibit Packet on January 30, 2014 for consideration and that the Packet contains a project description; a copy of the application

form; a listing of site data; a copy of the Deed to the property and a tax summary; a copy of the area site plan; a copy of a general information report on the property; a copy of the DelDOT Support Facilities Report; suggested/proposed Conditions of Approval; and suggested/proposed Findings of Fact.

The Commission found that DelDOT provided comments in the form of a memorandum on February 18, 2013 which reference that a Traffic Impact Study was not recommended, and that the current Level of Service “C” of Route 5, at this location, will not change as a result of this application.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on February 10, 2014 which reference that the site is located in the North Coastal Planning Area; that an on-site septic system is proposed; that the project is not capable of being annexed into a County operated Sanitary Sewer District; that conformity to the North Coastal Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer; and that a concept plan is not required.

The Commission found that John W. Davidson was present with Heidi Gilmore, Esquire, of Tunnell & Raysor, P.A., and that they stated in their presentation and in response to questions raised by the Commission that the Applicant also owns East Coast Structural Movers; that the site is currently vacant; that the Applicant purchased this property in 2013; that he proposes to use the site for an office and storage of equipment and materials; that the site is approximately 600 feet from his existing business site; that there are established business and commercial uses in the area, for example: an auto works, Pontoon Express, East Coast Structural Movers, and warehouses; that the site is in close proximity to the Solid Waste Authority’s transfer/recycling center on Route 5; that there should be no negative impacts on traffic; that a dwelling may be placed on the site for an office or for rental purposes; that the primary use of the site will be warehousing for his equipment and materials; that the use will be consistent with other uses in the area; that the use will be consistent with the Comprehensive Plan Update; that the use is a service business; that he does not plan on storing relocated dwellings on the site; that he may be relocating his moving business to the site; that he plans on storing his vehicles and equipment in the proposed warehouse; that he will not be working on or servicing his equipment on site; that normal business hours are from 7:00 a.m. to 5:00 p.m.; that he has 5 employees; that chain-linked fencing is proposed; that the lighting on the building will be downward illuminated; that signage will be lighted; that a dumpster will be used for trash; that he has not spoken to any of the neighbors; and that he may be storing rental dumpsters on the site, since that is a part of his contracting business.

The Commission found that there were no parties present in support of the application.

The Commission found that Dale Coker, an area resident, stated that he was not in opposition to the application, but had some concerns about drainage issues in the area; that his yard floods from run-off; that run-off is not currently being maintained; that the ditch is not being maintained; that the infrastructure should be completed prior to additional buildings; and that he questions the business hours.

Mr. Wheatley advised Mr. Coker that due to the proposed building size it is likely that the Applicant will be required to submit plans to the Sussex Conservation District for review of the proposed stormwater and erosion and sediment control facilities prior to any permits or improvements on the site.

Mr. Davidson advised the Commission that the rear of the property does fall off toward the ditch; that he has no plans to disturb that area; and that the area will remain a buffer.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to defer action for further consideration and to leave the record open for Mr. Johnson's participation, if he so chooses.
Motion carried 4 – 0.

Change of Zone #1742 Seaside Communities RDC, LLC

Application of **SEASIDE COMMUNITIES RDC, LLC** to amend Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to MR-RPC Medium Density Residential – Residential Planned Community for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 37.516 acres, more or less, land lying northeast corner of Route 24 (John J. Williams Highway) and Tanglewood Drive, a private street providing access to Briarwood Estates Subdivision (Tax Map I.D. 3-34-18.00-40.00).

The Commission found that the Applicants had provided an Exhibit Booklet on January 31, 2014 for consideration and that the Booklet contains a list of the project team; an Executive Summary; a project overview: including a boundary plat, topographic and non-tidal wetland survey; an overview of current site conditions; a site analysis; DelDOT improvements; and a copy of the PLUS (Preliminary Land Use Service) Report; references to compliance with applicable regulations: a statement of compliance with County Zoning Regulations; a statement of compliance with Chapter 99, the Subdivision Ordinance; a statement of compliance with the 2008 Comprehensive Land Use Plan Update; and a statement of compliance with the Environmentally Sensitive Developing District Overlay Zone; a conclusion statement; suggested/proposed Findings of Fact and Conditions of Approval; letters of support; and a series of maps, aerials, site plans, and photographs.

Mr. Lank advised the Commission that the file contains copies of Letters received from DelDOT dated December 6, 2013, December 18, 2013, and February 5, 2014.

Mr. Lank advised the Commission that the file also contains copies of the PLUS Report, dated August 21, 2013 and a copy of the Applicant's response to the PLUS Report, dated November 1, 2013.

Mr. Lank advised the Commission that the Department has requested that the Technical Advisory Committee agencies provide their written comments to the Department by March 20, 2014.

Mr. Lank advised the Commission that the County Engineering Department Utility Planning Division provided comments on February 10, 2014 referencing that the site is located in the Goslee Creek Planning Area; that wastewater capacity is available for the project; that Ordinance 38 compliance will be required; that the current System Connection Charge Rate is \$4,822.00 per EDU; that sewer service has not yet been extended to the Goslee Creek Planning Area, and that a connection point will be determined at a later date; that the project is capable of being annexed into the sewer district pending the completion of the Goslee Creek Planning Study; that conformity to the Goslee Creek Planning Study will be required; that the project is located in the Goslee Creek Planning Area for sewer service, and the County has undertaken a planning study to determine how service to the Planning Area will be provided; that the proposed project is included as a priority project in the Study, and a means for providing service will be included as a work item; that upon completion of the Study, the County Engineering Department expects to recommend a sewer district expansion to include the parcel; that the County requires design and construction of the collection and transmission system to meet County sewer standards and specifications; that the County Engineer must approve the connection point; that a sewer concept plan must be submitted for review and approval prior to design of the sewer system; that a checklist is provided for preparing concept plans; that one time system connection charges will apply; and that a concept plan is required.

Mr. Lank advised the Commission that the Applicants had Solutions Integrated Planning Engineering & Management, LLC (Solutions IPEM) forward Letters and Concept Renderings to Briarwood Estates Property Owners Association, Inc., Harts Landing Homeowners Association, the Lewes Fire Department, Inc., and the Cape Henlopen School District.

The Commission found that Paul Townsend, President, of J. G. Townsend Jr. & Co. Frozen Foods provided a letter in support of the application.

The Commission found that the Department received an email in opposition to this application from Steven Britz referencing that he opposes the application since traffic is frequently backed up along this stretch of Route 24; that the developers will be able to construct 75 dwelling units which will exacerbate an already bad situation; that approval for more homes is a privilege that must be weighed against the burden that will be imposed on the citizens of the County; that the traffic situation must be remedied; that if developers want special consideration then they should pay for the improvements on Route 24, not the residents of the surrounding communities.

The Commission found that Gene Bayard, Esquire, of Morris James Wilson Halbrook & Bayard, LLP was present on behalf of the Applicants with Frank Kea, RLA, and Jason Palkewicz, P.E. of Solutions IPEM, and Ed Launey of Environmental Resources, Inc. and that they stated in their presentations and in response to questions raised by the Commission that the site is adjacent to Briarwood Estates Subdivision and Hart's Landing Residential Planned Community, the proposed Cape Henlopen School site, the proposed State Police Troop 7 site, and a proposed EMT facility; that the design of the project does not disturb any wetlands, the Heidi Fisher Pond, or any woodlands; that a clubhouse, pool, tot-lots and picnic areas, and other recreational features are planned; that sidewalks are proposed on both sides of the streets; that buffer landscaping will be provided along those perimeter areas that are not currently wooded; that a portion of the existing barn on the property may be converted into the clubhouse; that Hart's Landing, The Retreat, and the Reserves at Lewes Landing are some of the Residential Planned Communities in the area; that the project is designed for single family detached condominium units, which provides for a maintenance company maintaining the grounds, open spaces, common areas, etc.; that the proposed units will be similar to units in Ellis Point near Bethany Beach, The Avenue on Rehoboth Avenue Extended, and Nassau Grove near Red Mill Pond; that DelDOT has performed a study of the area and determined specific road entrance and intersection improvements in the area, including lanes, bus stops, bicycle paths, etc. at the developers expense; that the site has been largely developed as a horse farm with pastures, riding rings, barns, stables, and out buildings; that it is not the developers intent to disturb any of the existing wetlands or woodlands; that all proposed improvements will be located in the already disturbed areas; that a wetland delineation has already been performed and submitted to the Army Corps. of Engineers; that there are no Federally listed endangered species reported to be on this site; that all street and urbanized run-off will go to the proposed stormwater pond on the site; that the site contains 37.5 acres which would allow for up to 151 units; that 115 units are proposed at a density of 3.3 units per acre; that there will be 14 acres of open space, including the ponds, tot lots, preserved wetlands and woodlands; that central sewer will be provided by the County; that central water will be provided by Tidewater Utilities; that all stormwater will be maintained on site; that this is an infill project surrounded by other existing and proposed projects; that the application is consistent with the development trends in the area; that Route 24 improvements will be funded by the developer and the Federal government; that DelDOT has reported that this project is consistent with the Strategies for State Policies and Spending and the Sussex County Comprehensive Plan Update for 2008; that some filter strips will be created and will provide for improved runoff quality on the site; that the site has a lot of changes in the topography, but contains well drained soils; that no formal phasing plan has been proposed ; that they anticipate that the site will be developed in two phases; that the larger stormwater pond in the center of the project will remain wet and will flow to the small wetland area in the southwest corner of the site to a culvert under Route 24; that the HOA documents can include reference to signage for designating the wetlands boundaries; that it has not been determined if they will provide a central postal system at the clubhouse or install a series of mail receptacles; that the

design of the project works around the existing topographic features of the site; and that the perimeter buffers will be maintained with at least a 20 foot wide landscaping as provided in the Subdivision Ordinance.

The Commission found that there were no parties present in support of the application.

The Commission found that Jeff Meredith, the owner/operator of Sussex Tree, a neighboring property owner, was present and questioned if berms and landscaping are planned to separate his property from the project, and added that he is not in opposition to the project, only concerned that he may get future complaints about his business that operates 5 to 6 days per week handling mulch and landscaping, which generates some equipment noise.

The Commission found that James Schneider, a resident of Hart's Landing, was present, not specifically in opposition but with some concerns. Mr. Schneider read and submitted a letter which references that he is not against development in this area; that he is not specifically against this development; that he is against zoning changes that allow more density which compounds the traffic situation on Route 24; that the quality of life is already impacted by heavy congestion on Route 24, but more important is the safety issues that arise from traffic congestion; that he has read the Traffic Impact Study and the DelDOT acceptance of the Study; that the recommendations will help, but does not go far enough to improve traffic; that before future developments are approved, our government and communities must design and implement specific plans to improve traffic situations on Route 24; that Route 24 is a major road that has become increasingly traveled and has become dangerous with many accidents, including a fatal; that at least two Hart's Landing residents have had accidents leaving the development turning onto Route 24; that he cannot make a left turn out of his community to go east in the mornings when Beacon Middle School is in session or from 11:00 am to 1:00 pm during weekends in the Summer; that he must turn right and go out of his way and double back on local roads to get to an easterly destination due to the traffic; that this is an inconvenience to the residents in his community and other communities along Route 24; that the Commission needs to visualize the safety risks that residents take if they are trying to turn into traffic; that the new elementary school on Route 24, this development, and the proposed RV parks will make the situation even worse; that a population study completed by the University of Delaware shows district population growth concentrated along the Route 24 corridor; that if the Cape Henlopen School Board and the University of Delaware can see the growth along Route 24 corridor then he does not understand why DelDOT and the Commission can't support this growth with infrastructure improvements that reduce safety risks and add to the taxpayers quality of life; that he recommends: that Route 24 be made a two lane road in each direction from the Love Creek Bridge to Route One and eliminate left turn lanes; put a traffic light at Mulberry Knoll Road with a jug handle or a cloverleaf at that location and at Plantation Road; that the school put its entrance to the new Elementary School on Mulberry Knoll Road and relocate its entrance to Beacon School onto Mulberry Knoll Road, not Route 24; and that the light at the current entrance to the Beacon Middle School be move to the entrance of Hart's Landing and

Bookhammer Estates; and added that to continue growing the County and increasing the value in our area we must plan for the future and not look at things one at a time; and that we need a broader infrastructure plan that will meet the expected growth.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to defer action for further consideration and to leave the record open for Mr. Johnson's participation, if he so chooses, and for receipt of the T.A.C. (Technical Advisory Committee) comments. Motion carried 4 – 0.

Subdivision #2013-13 Charles H. Moore

Application of **CHARLES H. MOORE** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 4.637 acres into 2 lots, and a waiver from the street design requirements, located at the southwest corner of Beidemann Way, a private road, and Road 228A (Beidemann Road)(Tax Map I.D. 2-30-21.00-25.03).

Mr. Abbott advised the Commission that on September 26, 2013 the Commission reviewed this request as an Other Business item and determined that an application for a major subdivision would be necessary since the proposed subdivision would contain 5 lots having access from Beidemann Way; that the applicant has submitted the required 51% agreement of the owners within the subdivision consenting to the application; that DelDOT has issued a Letter of No Objection indicating that the proposed 2 parcels will have access from Beidemann Way; and that on January 24, 2014 the applicant submitted proposed restrictions.

Mr. Abbott advised the Commission that the Sussex County Engineering Department Utility Planning Division provided written comments on February 10, 2014 indicating that the site is not located in a County operated and maintained sanitary sewer district; that the site is located in the North Coastal Planning Area; that on-site septic systems are proposed; that the project is not capable of being annexed into a County operated Sanitary Sewer District; that conformity to the North Coastal Planning Study will be required; that the proposed project is not in an area where Sussex County currently has a schedule to provide sewer service; and that a concept plan is not required.

Charles Moore was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that he agrees with the application; that the lot owners in the subdivision have consented to this application; that the maintenance of the roadway is shared by the different lot owners; that the proposed lot will have the same maintenance agreement as the others; that on-site septic is proposed; and that the existing roadway is crusher run material.

The Commission found that no parties appeared in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Mr. Burton stated that he would move that the Commission grant preliminary and final approval of Subdivision #2013 – 13 for Charles H. Moore, based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the Subdivision Code in that it protects the orderly growth of the County. It also meets the requirements of the Subdivision Code, and the items listed in Section 99-9C of the Code have been favorably addressed.
2. The proposed subdivision density is less than the density permitted by the existing AR-1 zoning.
3. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
4. The subdivision is consistent with other developments in the area.
5. The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
6. More than 51% of the existing lot owners of the surrounding subdivision have consented to this application and no parties appeared in opposition to it.
7. A waiver from the street design requirements is appropriate. Access to this lot will be from an existing roadway of crusher run type materials. The maintenance of this roadway is currently governed by maintenance obligations of the existing lot owners and the new lot will be subject to these obligations.

Motion by Mr. Burton, seconded by Mr. Smith, and carried unanimously to approve this application as a preliminary and as a final for the reasons, and with the condition stated. Motion carried 4 – 0.

OTHER BUSINESS

OV Associates, LLC Commercial Site Plan – Route 26

Mr. Abbott advised the Commission that this is a preliminary site plan for a 3-story, 37 room motel located on 1.587 acres; that the site is zoned C-1 and is located on the north side of Route 26 across from the Lord Baltimore Elementary School near Ocean View; that the building setbacks meet the minimum requirements of the zoning code; that the proposed front yard setback is 30 feet; that the average front yard setback is 29.5 feet; that an average front yard setback is permitted by the zoning code; that the maximum building height is 42 feet; that 60 parking spaces are required and 64 spaces are proposed; that 10 spaces are within the front yard setback and are subject to site plan review; that other commercial projects in the immediate area have parking in the front yard setback; that one loading space is proposed; that since the parcel was created prior to the 50-foot buffer from State tidal wetlands buffer Ordinance, a buffer is not

required from the tidal wetlands; that a portion of the site is located in an AE flood zone with a base elevation of 7.0 feet; that central sewer will be provided by Sussex County and central water will be provided by Tidewater Utilities, Inc.; that the final site plan needs to include the wetlands consultant's signature; that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals; and that the Commission was previously provided a copy of the preliminary site plan.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to approve the site plan as a preliminary with the stipulation that final site plan approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

Garden Creation & Care, Inc.
CU #1961 Site Plan – Road 277

Mr. Abbott advised the Commission that this is a site plan for a landscaping business located on 0.997 acres of land which is zoned AR-1; that this conditional use was approved on May 21, 2013 with 8 conditions of approval; that the conditions are noted or depicted on the site plan; that a 40 foot by 50 foot pole building and a 28 foot by 56 foot dwelling are proposed; that the setbacks meet the minimum requirements of the zoning code; that a gravel parking lot with parking for 8 employee's vehicles and driveway is proposed; that the parking spaces are marked with a standard parking bump stop; that the project will be served by an on-site septic and well; that there are not any impacts to the wetlands; that a portion of the site is located in an AE, El. 8.0 feet flood zone; that all agency approvals have been received; that final approval could be granted; and that the Commission was previously provided a copy of the site plan.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the site plan as a preliminary and as a final. Motion carried 4 – 0.

Alfonso Matos
CU #1945 Site Plan – Route 20

Mr. Abbott advised the Commission that this is a site plan for a small storage facility located on a 14,964 square foot parcel which is zoned AR-1; that this conditional use was approved on January 15, 2013 with 10 conditions of approval; that the 10 conditions of approval are noted on the site plan; that an existing 24 foot by 38.1 foot block storage building will remain and be utilized; that the building is a legal non-conforming building; that the project will be served by on-site septic and well; that all agency approvals have been received and final site plan approval can be granted; and that the Commission was previously provided a copy of the site plan.

The Commission questioned where the entrance is located.

Mr. Abbott advised the Commission that the entrance is directly in front of the existing building; and that DelDOT has issued a Letter of No Contention so that the owner may use the existing entrance and that no improvements are required.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

**East Millsboro Elementary School
CU #1976 Site Plan – Road 331**

Mr. Abbott advised the Commission that this is a site plan for an 8,950 square foot addition for classrooms located on a 26.54 acre parcel which is zoned AR-1; that this conditional use was approved on January 7, 2014 with the condition that the site plan shall be subject to the review and approval of the Commission; that the setbacks meet the minimum requirements of the zoning code; that the proposed height is 21.16 feet; that 72 parking spaces are required for the project and 116 spaces are provided; that water and sewer will be provided by the Town of Millsboro; that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals; and that the Commission was previously provided a copy of the site plan.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the site plan as a preliminary with the stipulation that final site plan approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

**Long Neck Elementary School
CU #1043 Revised Site Plan – Road 298**

Mr. Abbott advised the Commission that this is a revised site plan for an 8,400 square foot addition to an existing elementary school which is located on a 17.83 acre parcel which is zoned AR-1 and GR; that this conditional use was approved on June 19, 1993 with the stipulation that the site plan shall be subject to the review and approval of the Planning and Zoning Commission; that the setbacks meet the minimum requirements of the zoning code; that 72 parking spaces are required and 102 spaces are proposed; that the proposed building height is 29.6 feet; that water will be provided by Tidewater Utilities, Inc. and sewer will be provided by Sussex County; that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals; and that the Commission was previously provided a copy of the site plan.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the site plan as a preliminary with the stipulation that final site plan approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

**T.S. Smith & Sons, Inc.
Agricultural Preservation District – Route 40**

Mr. Abbott advised the Commission that this is an application for an Agricultural Preservation District located south of Road 40, east of U.S. Route 13 in Northwest Fork Hundred; that the site contains 243.82 acres with 192.31 acres being crop lands and 51 acres of forested land; that the purpose of this application is for a recommendation to the Agricultural Lands Preservation Foundation that the site be designated as an Agricultural Preservation District; and that the Commission was previously provided a copy of the application that was submitted by the Foundation.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with the recommendation that it be approved. Motion carried 4 – 0.

Roland V. Fleetwood, Trustee
Agricultural Preservation District – Road 485

Mr. Abbott advised the Commission that this is an application for an Agricultural Preservation District located on the southeast side of Road 485, southwest of Road 488 in Broad Creek Hundred; that the site contains 200.80 acres with 157 acres being crop lands and 43 acres of forested land; that the purpose of this application is for a recommendation to the Agricultural Lands Preservation Foundation that the site be designated as an Agricultural Preservation District; and that the Commission was previously provided a copy of the application that was submitted by the Foundation.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with the recommendation that it be approved. Motion carried 4 – 0.

H. Robert Messick
Agricultural Preservation District – Road 42

Mr. Abbott advised the Commission that this is an application for an Agricultural Preservation District located on the northwest side of Road 42 and the south side of Road 565 in Nanticoke Hundred; that the site contains 256.4 acres with 160 acres being crop lands and 96.4 acres of forested land; that the purpose of this application is for a recommendation to the Agricultural Lands Preservation Foundation that the site be designated as an Agricultural Preservation District; and that the Commission was previously provide a copy of the application that was submitted by the Foundation.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with the recommendation that it be approved. Motion carried 4 – 0.

Steve Cooper
2 Parcels and 50' Right of Way – Road 557

This item was removed from the Agenda on January 28, 2014.

John and Karen Fitzgerald
Parcel and Easement – Road 207

Mr. Abbott advised the Commission that this is a request to subdivide a 28.0 acre parcel into 3 parcels with one of the parcels having access from an 83 foot easement; that Lots 1 and 2 will each contain 0.75 acres and will have access from Road 207 and Road 621 respectfully; that the

remaining 26.5 acres would have access from an 83 foot easement/right of way off of Road 207; that the owner is proposing to create the easement/right of way over an existing driveway; that the request may be approved as submitted, or an application for a major subdivision can be required; and that the Commission was previously provided a sketch drawing of the request.

Mr. Burton questioned if Lot 1 and the residual lands will both have access to the easement.

Mr. Abbott advised the Commission that DelDOT will probably require Lot 1 and the residual lands to both have access from the easement.

Motion by Mr. Burton, seconded by Mr. Smith, and carried unanimously to approve the request as submitted as a concept subject to DelDOT's Letter of No Objection. Motion carried 4 – 0.

Dennis Mignogno

2 Lots and 50' Right of Way – Road 207

Mr. Abbott advised the Commission that this is a request to revise and reassemble 2 parcels with one of the parcels having access from a 50-foot easement; that the owner is proposing to create the easement over an existing driveway; that the request may be approved as submitted, or an application for a major subdivision can be required; and that the Commission was previously provided a sketch drawing of the request.

Motion by Mr. Burton, seconded by Mr. Smith, and carried unanimously to approve the request as submitted as a concept. Motion carried 4 – 0.

Meeting adjourned at 7:55 p.m.